



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Kinde Durkee, Register # 57860-112
FMC Lexington
Federal Medical Center
Satellite Camp
P.O. Box 14525
Atwood Hall
Lexington, KY 40512-4525

DEC 12 2014

RE: MUR 6597

Dear Ms. Durkee:

On December 8, 2014, the Federal Election Commission accepted the signed conciliation agreement you submitted in settlement of knowing and willful violations of 2 U.S.C. §§ 432(b)(3), 432(c), 434(b) and 439a(b), provisions of the Federal Election Campaign Act of 1971, as amended.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 52 U.S.C. § 30109(a)(4)(B) (formerly 2 U.S.C. § 437g(a)(4)(B)).

Enclosed you will find a copy of the fully executed conciliation agreement. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dawn M. Odrowski".

Dawn M. Odrowski
Attorney

Enclosure
Conciliation Agreement

RECEIVED
FEDERAL ELECTION
COMMISSION
2014 AUG 28 PM 1:5
OFFICE OF GENERAL
COUNSEL

MUR 6597

CONCILIATION AGREEMENT

pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities and a Complaint filed by William Wardlaw, treasurer for Feinstein for Senate.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

IV. The pertinent facts in this matter are as follows:

1. Under the Act, a treasurer is required to accurately keep an account of and report receipts and disbursements. *See* 2 U.S.C. §§ 432(c)(5), 434(b)(2), (3), (4), (6). Committee treasurers and any other person required to file any report or statement under the Act and the

15644051

Commission's regulations are also personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d).

2. The Act and Commission regulations require that all funds of a political committee must be segregated from and may not be commingled with the personal funds of any individual. 2 U.S.C. § 432(b)(3); 11 C.F.R. § 102.15.

3. The Act prohibits any person from converting contributions to a Federal candidate for personal use. 2 U.S.C. § 439a(b)(1). "Personal use" means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder. 11 C.F.R. § 113.1(g). The term "person" includes individuals and committees. 2 U.S.C. § 431(11).

4. A knowing and willful violation of the Act requires full knowledge of all the relevant facts and a recognition that the action is prohibited by law.

5. Kinde Durkee formed Durkee & Associates ("D&A") in 2000 to provide accounting and reporting services to political campaigns. For more than a decade, Durkee served as treasurer or assistant treasurer for hundreds of state and federal political committees and non-profit organizations, prepared and filed their disclosure reports, and exercised control over their bank accounts.

6. Durkee served as treasurer of Feinstein for Senate and the Committee to Re-Elect Loretta Sanchez for 19 years and 15 years, respectively, including during the period before she formed D&A in 2000. Durkee served as treasurer of the Committee to Re-Elect Linda Sanchez

1 and its predecessor committee for about ten years, the Fund for a Majority for four years, and
2 Susan Davis for Congress for about three years. Feinstein for Senate, Fund for the Majority,
3 Susan Davis for Congress, the Committee to Re-Elect Linda Sanchez, and the Committee to Re-
4 Elect Loretta Sanchez (collectively "the Committees") are political committees within the
5 meaning of 2 U.S.C. § 431(4)(A), and filed disclosure reports with the Commission.

6 7. On March 27, 2012, the United States Attorney for the Eastern District of California
7 filed a criminal Information charging Durkee with "routinely misappropriate[ing] client funds by
8 moving without authorization substantial sums of money out of client accounts, including
9 political campaign accounts, into Durkee & Associates' or into other clients' accounts," and
10 submitting false disclosure reports to the California Secretary of State, the Senate Office of
11 Public Records, and the Commission that failed to disclose the transfers of funds into and out of
12 clients' accounts. On March 30, 2012, Durkee pleaded guilty to five counts of mail fraud,
13 admitting that she caused in excess of \$7 million in losses to more than 10 and possibly 50 or
14 more of her clients, beginning as early as January 2000 and continuing through
15 early September 2011. On November 28, 2012, the district court sentenced Durkee to a 97-
16 month term of imprisonment and ordered her to pay \$10.5 million in restitution. The district
17 court amended its judgment on September 26, 2013, decreasing the restitution amount to
18 \$9,749,989.76 due to a clerical error in the loss ascribed to one of the political committees.
19 Durkee began serving her sentence on January 2, 2013.

20 8. For over ten years, in her capacity as treasurer of the Committees, Durkee made
21 unauthorized transfers of funds from the Committees' bank accounts into D&A bank accounts
22 that contained both business and personal funds of Durkee; she thereby also commingled the

1 Committees' funds with personal funds. Durkee further used those funds to pay for personal
2 expenses, including personal mortgage and credit card payments.

3 9. Durkee also created false records in the form of financial reports she provided to the
4 Committees to hide her activities. She then failed to disclose any of these unauthorized transfers
5 in the Committees' reports that she filed with the Commission. Her efforts to conceal the
6 unauthorized transfers demonstrate that she knew her actions were unauthorized and illegal.

7 10. According to available financial information covering varying periods of time for
8 each Committee, Durkee filed disclosure reports on behalf of the Committees that failed to
9 disclose substantial amounts of activity: (1) as to Feinstein for Senate, Durkee failed to disclose
10 unauthorized disbursements and receipts totaling \$4,645,386.12 and \$100,000, respectively;
11 (2) as to the Fund for the Majority (Sen. Feinstein's leadership PAC), Durkee failed to disclose
12 unauthorized disbursements and receipts totaling \$25,000 and \$1,874.10, respectively; (3) as to
13 Susan Davis for Congress, Durkee failed to disclose unauthorized disbursements and receipts
14 totaling approximately \$641,000 and \$483,480, respectively; (4) as to the Committee to Re-
15 Elect Linda Sanchez, Durkee failed to disclose unauthorized disbursements totaling
16 approximately \$887,700 and over-reported or under-reported receipts in each disclosure report
17 filed between January 1, 2007 and September 30, 2011; and (5) as to the Committee to Re-Elect
18 Loretta Sanchez, Durkee failed to disclose unauthorized disbursements totaling approximately
19 \$1,826,293 and over-reported or under-reported receipts in each disclosure report filed between
20 January 1, 2007 and September 30, 2011.

21

V. Respondent knowingly and willfully violated 2 U.S.C. §§ 432(b)(3), 432(c), 434(b), and 439a(b), by commingling committee funds with personal funds, failing to keep accurate records of committee funds, filing inaccurate reports with the Commission, and converting campaign funds to her personal use.

VI. Respondent will take the following actions:

1. In ordinary circumstances, the Commission would seek a civil penalty based on the knowing and willful violations outlined in this agreement pursuant to 2 U.S.C. §437g(a)(5)(B) of up to 200 percent of any contribution or expenditure involved in such violation, or in this instance, \$878,000. However, the Commission is taking into account the fact that Respondent Kinde Durkee, through the submission of financial documentation to the Commission and additional representations, has demonstrated that financial hardship prevents her from paying a civil penalty in this matter. These representations include that Respondent Durkee has no significant assets, has pleaded guilty and is currently incarcerated for a criminal matter arising from her unauthorized use of funds, and was ordered by the U.S. District Court of the Eastern District of California to pay \$9,749,989.76 in restitution to all of the committees from whom she misappropriated funds, including \$5,545,368 to the Committees. In addition, Respondent Durkee is liable for significant federal and state tax debts in excess of \$350,000. The Commission regards these submissions and representations as material representations. Due to the mitigating circumstances presented by Respondent Durkee's financial condition, the Commission agrees that no civil penalty shall be due. If evidence is uncovered indicating Durkee's financial condition is not as stated, a civil penalty of up to eight hundred seventy-eight thousand dollars (\$878,000) shall be immediately due, pursuant to 2 U.S.C. § 437g(a)(5)(B).

1 2. Respondent will cease and desist from violating 2 U.S.C. §§ 432(b)(3),
2 432(c), 434(b), and 439a(b).

3 3. Respondent agrees not to volunteer or engage in work for any federal
4 political committee or any federal campaign in a capacity involving finances or disclosure
5 reports for a period of fifteen (15) years from the date of this agreement.

6 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
7 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
8 with this agreement. If the Commission believes that this agreement or any requirement thereof
9 has been violated, it may institute a civil action for relief in the United States District Court for
10 the District of Columbia.


11 VIII. This agreement shall become effective as of the date that all parties hereto have
12 executed same and the Commission has approved the entire agreement.

13 IX. Respondent shall have no more than 30 days from the date this agreement
14 becomes effective to comply with and implement the requirements contained in this agreement
15 and to so notify the Commission.

16


X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

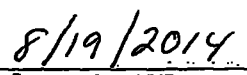
FOR THE COMMISSION:

BY: 
Daniel A. Petalas
Associate General Counsel
for Enforcement


Date 12/11/14

FOR THE RESPONDENT:


Kinde Durkee


Date 8/19/2014

150444051-1-50444051-24